

## The War on Terroir in Asia?: Legal Issues of Geographical Indications in Recent International Trade Negotiations and Implications for Taiwan

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### Abstract

The Agreement on Trade-Related Aspects of Intellectual Property Rights (“TRIPS”) stipulates that the members of the World Trade Organization (“WTO”) should provide basic protection of geographical indications (“GI”) and recognizes that WTO members can continue to negotiate on strengthening protections of individual GI. Following the requirement of TRIPS, the GI protection is usually considered to be a struggle between the European pursuit of higher protection level and the opposition led by the United States (“US”) to strengthening the GI protection. The struggle is also described as the war on terroir between the “New World” and the “Old World”. However, what is the war on terroir? How do the US and the European Union (“EU”) promote their differing perspectives on geographical indications through bilateral agreements in Asia? How do Asian countries respond to those irreconcilable requirements when signing the agreements with the EU and the US? Is it possible for Taiwan to stay out of the war on terroirs between the US and the EU?

In order to answer the above questions, this article summarizes the most controversial substantive legal issues included by the conflicting perspectives between the EU and the US and analyzes the models adopted by different countries

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to reconcile conflicting views in current bilateral agreements. Furthermore, since the perspectives of the EU and the US have entered the domestic laws of the four Asian countries (South Korea, Singapore, Japan, and Vietnam) through free trade agreements, it is worthwhile to analyze how these countries use their dual legislation of the sui generis system and trademark law to respond to substantive legal issues that have not yet reached a consensus between the EU and the US. Finally, although Taiwan has not signed a free trade agreement with either the EU or the US, it should be noted that Taiwan has been bound by the differing obligations of GI protection through the signing of trade agreements with other countries. Therefore, this article provides the suggestions for Taiwan to revise its domestic law based on its international obligations and to formulate a better strategy for negotiating future free trade agreements by learning from the four Asian countries.

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